

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

RICHARD A. DAVIS,

Plaintiff(s),

08cv0938

**ELECTRONICALLY FILED**

v.

MONEY LIFE INSURANCE COMPANY a  
Division of AXA Financial, JANET E. DAVIS  
now known as JANET E. GARRITY, CRAIG  
A. DUNNING,

Defendant(s).

**Memorandum Order**

Pending before this Court is plaintiff's motion for partial summary judgment (doc. no. 35). Plaintiff argues that a marital settlement agreement entered into between plaintiff and his ex-wife, defendant Garrity, does not bar the current tort claims against defendant Garrity. Plaintiff seeks an order (almost in the nature of a declaratory judgment) to preclude defendant Garrity from arguing that the language of the marital settlement agreement bars the current action. After careful consideration, the Court finds that it is premature to address this issue without first allowing the parties an opportunity to fully develop a factual record on the preclusive effect, if any, of the settlement of the divorce action. Accordingly, the Court will deny the motion for partial summary judgment without prejudice for said motion to be re-filed at the appropriate time following discovery. Plaintiff may refile said motion, if appropriate, at a time prior to the summary judgment briefing schedule currently set to commence on March 2, 2009.

SO ORDERED this 13th day of November, 2008.

s/Arthur J. Schwab

Arthur J. Schwab  
United States District Judge

cc: All Registered ECF Counsel and Parties

